



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable E. G. Garvey  
County Auditor  
Bexar County  
San Antonio, Texas

Dear Sir:

Opinion No. O-5162

Re: Under the facts submitted can Bexar County legally disburse funds from the General Fund of the county to pay rent for a warehouse to store surplus commodities, since the State and Federal Governments have ceased to participate in the distribution of surplus commodities?

Your letter of March 25, 1943, requesting the opinion of this department on the question stated above reads in part as follows:

"Please furnish me with an Opinion on the following matter:

"This County has been cooperating with the State and Federal Governments for quite some time regarding the distribution of surplus commodities, and during this time Bexar County has paid rent from the General Fund of the County for a warehouse to store these surplus commodities, in compliance with Article 2372E-2, Vernon's Texas Statutes 1939.

"On March 1st the agencies of the State and Federal Governments withdrew their support and ceased to participate in the distribution of surplus commodities. However, on March 9th, 1943, the Commissioners' Court by Court Order accepted from the State Public Health Department approximately sixty days supply of surplus commodities

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to be used for relief purposes only. On March 13th the Commissioners' Court by Court Order turned these surplus commodities over to the Associated Charities for distribution to needy families of Bexar County, the Associated Charities bearing the expense of the distribution of these commodities.

"Under the conditions above stated, can Bexar County legally disburse funds from the General Fund of the County to pay rent for a warehouse to store surplus commodities, since the State and Federal Governments have ceased to participate in the distribution of surplus commodities?

" . . . . "

In opinion No. 0-2217 (Conference Opinion No. 3099) this department held in effect that a county commissioners' court may rent a building in which to store food and clothing furnished by the Federal Government for distribution to indigents, may employ case workers to assist in determining those to whom aid must be extended, and may purchase a truck with which to distribute such commodities, if reasonable and necessary to provide support for those persons mentioned in subdivision 11 of Article 2351, Vernon's Annotated Civil Statutes. This opinion further holds that the commissioners' courts may rent office space for Old Age Pension investigators, the W. P. A. and other Federal Government projects, as such projects are engaged in the administration of relief to unemployed and needy people of the county.

It is stated in the foregoing opinion,

"It goes without saying that the discretion residing in the Commissioners' Courts in such matters must be soundly exercised. If the recipients of such relief are not so indigent as to fall within the terms of the statute, the Commissioners' Court would be without authority to do any of the things you inquire about. Assuming however, that the beneficiaries of such relief are within the statute, that a storehouse is necessary in providing them with support, that the county has no available space without renting the same, that the house

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rented is of size and location commensurate with the need and the rent reasonable, your first question is answered in the affirmative. . . ."

The question referred to in the quoted matter above is as follows:

"May the Commissioners' Court legally lease a building to be used as a warehouse to store surplus commodities, such as foods and clothing furnished by the Federal Government to be issued to the indigents of the county, and pay \$100.00 per month rental for said building?"

In the facts stated in your letter it is noted that the commissioners' court by court order turned the surplus commodities over to the Associated Charities for distribution to needy families of their county and that the Associated Charities were to bear the expense of the distribution of these commodities.

If the recipients of such relief are so indigent as to fall within the terms of the statute (Article 2351, Vernon's Annotated Civil Statutes) the commissioners' court would have authority to disburse funds from the general fund of the county to pay the rent for a warehouse to store these surplus commodities. Assuming that the beneficiaries of such relief are within the statute, we respectfully answer the above stated question in the affirmative.

We are enclosing herewith a copy of opinion No. 0-2217 (Conference Opinion No. 3099) for your convenience.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Ardell Williams*  
Ardell Williams  
Assistant

AW:mp  
Encl.

*Gerald C. Mann*  
APPROVED SEP 1943

ATTORNEY GENERAL OF TEXAS

